REMARKS

Claims 1-3, 7-9, 13-17, 20-22, 26-27, 30-31, 33-36, 40-53, and 55-59 are pending in the application. Claims 1-3, 15-17, 22, 27, 30, 31, 33, 36, 42, 43, 48, 49, 53, 57, and 59 have been amended by this paper. No claims have been cancelled by this paper. The applicant requests consideration of the following remarks and allowance of the claims.

Amendments to the Specification

Paragraph [0090] of the published application has been deleted. New paragraphs [0090] to [0107] have been added by this paper. Paragraphs [0090] to [0106] correspond to the claims as originally filed but in sentence form. Paragraph [0107] corresponds to deleted paragraph [0090]. Thus, no new matter has been added.

Claim Rejections

Claims 1-3, 7-9, 13-17, 20-22, 26-27, 30-31, 33-36, 40-53, and 55-59 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Stuart et al. (U.S. Patent #6,639,982) in view of O'Brien (U.S. Patent # 6,587,831). Applicant respectfully traverses the rejection for at least the following reasons.

In the interview summary mailed September 7, 2007, the Examiner "...suggested that a literal or descriptive recitation of the unique mathematical algorithm...would clearly distinguish the present invention from the cited prior art." Applicant has amended claims independent claims 1, 16, and 30 to be more descriptive of the present invention. Applicant has also amended the claims to more accurately reflect that the available work is not distributed (or redistributed) to a single queue or work load. Applicant has also amended the claims to correct possible antecedent basis problems.

The Examiner's note invites the applicant to clarify the record as to exactly what the differences are between the present invention and linear programming or iterative summation. Applicant will attempt to make this clarification.

Optimization using linear programming (LP) (which the Examiner has characterized as the same as iterative summation) involves the optimization of a linear objective function, subject to linear equality and inequality constraints. Put very informally, LP problems determine the way to achieve the best outcome (such as

maximum profit or lowest cost) given some list of requirements represented as linear equations. More formally, given a polytope (for example, a polygon or a polyhedron), and a real-valued affine function defined on this polytope, the goal is to find a point in the polytope where this function has the smallest (or largest) value. Such points may not exist, but if they do, searching through the polytope vertices is guaranteed to find at least one of them. Thus, linear programs search.

In addition, linear programs are problems that can be expressed in a canonical form of matrices and vectors. The variables are represented as a vector of variables. Thus, because each of the variables (agents) that are input to the linear program are in the vector of variables, all of the variables are considered simultaneously during the linear programming optimization process. (For a more detailed discussion of the characteristics of linear programming, see http://en.wikipedia.org/wiki/Linear_programming.)

This characteristic of linear programming, among others should be contrasted with applicant's amended independent claims that, for example, require *alternately adding employees and calculating effects comprising: adding additional employees from the at least one profile to the proposed schedule one at a time and calculating effects of adding the each additional employees while considering the addition of each additional employee to be independent of adding any other employees from the at least one profile until available work for every employee from the at least one profile has been distributed.*

Thus, applicant's claims specify considering each agent independently, not simultaneously as disclosed by the linear programming optimization process of Stuart.

Applicant would also like to note that O'Brien generates an optimized schedule. See column 4, lines 53-58: "The scheduling engine then generates an optimal schedule…." In order to produce an optimal solution, all of the input variables (agents) must be considered. That is because performing an optimization search while failing to consider even a single input variable may lead to a suboptimal solution with respect to the unconsidered variable. Thus, O'Brien also fails to disclose *alternately adding employees and calculating effects comprising: adding additional employees from the at least one profile to the proposed schedule one at a time and calculating effects of adding the each additional employees while considering the addition of each additional*

employee to be independent of adding any other employees from the at least one profile until available work for every employee from the at least one profile has been distributed.

Accordingly, for at least the reasons given above, applicant respectfully submits that all of applicant's limitations are not disclosed, taught or suggested by the prior art. "To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art." See In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974) and MPEP 2143.03. Applicant respectfully submits that independent claims 1, 16, and 30 are therefore patentable over Stuart in view of O'Brien.

The dependent claims, while separately allowable over the art of record, depend from otherwise allowable independent claims. The applicant therefore refrains from a discussion of the dependent claims for the sake of brevity.

CONCLUSION

The claims in their present form are allowable over the art of record. The applicant therefore solicits their allowance

The Applicant submits payment herewith for the fee associated with the request for continued examination under 37 C.F.R. § 1.17(e). The applicant believes no additional fees are due with respect to this filing. However, should the Office determine that additional fees are necessary, the Office is hereby urged to contact applicant's attorney.

Respectfully submitted,

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